

From: [McGuigan, David](#)
To: (b) (6); [Capacasa, Jon](#)
Cc: [Gleason, Patricia](#); [Ashby, Bryan A. \(DNREC\)](#)
Subject: RE: Status of Response to My April 15, 2014 E-mail Questions
Date: Friday, April 25, 2014 10:47:00 AM
Attachments: [image001.jpg](#)

(b) (6),
[Apparently, a typo in the email below – \(b\) \(6\) should have been \(b\) \(6\)](#)

From: McGuigan, David
Sent: Friday, April 25, 2014 10:46 AM
To: (b) (6); Capacasa, Jon
Cc: Gleason, Patricia; Ashby, Bryan A. (DNREC)
Subject: RE: Status of Response to My April 15, 2014 E-mail Questions

(b) (6),
[Please see attached response to your email of April 15.](#)

David B. McGuigan, Ph.D.
Office of NPDES Permits and Enforcement
Tel: 215-814-2158
Cell: 215-514-9651

From: (b) (6)
Sent: Tuesday, April 22, 2014 9:56 AM
To: Capacasa, Jon; McGuigan, David
Cc: Gleason, Patricia
Subject: Status of Response to My April 15, 2014 E-mail Questions



Mr. Capacasa, Mr. McGuigan, Ms. Gleason,
I am preparing a response to DNREC Secretary O'Mara as well as some additional newspaper articles. It is possible that the EPA could provide a prompt E-Mail response to my April 15th E-mail questions. My two questions should take 15 minutes or less to answer. Your prompt response would be greatly appreciated.

Thank you,

(b) (6)
April 14, 2014

Mr. Jon Capacasa – EPA,

Mr. David McGuigan – EPA,

As you well know I filed a Formal Complaint with Ms. Regina McCarthy the EPA Administrator on February 27, 2014 regarding the past handling of NPDES permit # DE0000736 by DNREC along with the questionable use of Nutrient offsets and lack of EPA review and oversight. I received a response to that complaint signed on March 18, 2014 by Jon Capacasa, EPA Director of Water Protection Division. Included in that response was a statement saying please do not hesitate to call Mr. David McGuigan if you have any questions. Therefore, based on

new information, I have some additional questions.

A Public TV (WHYY) FIRST show aired on March 28, 2014 regarding Delaware's clean water and the proposed Allen Harim chicken slaughterhouse. DNREC Secretary, Collin O'Mara, made the following statements on that broadcast. **"They (Allen Harim) will have to meet the vigorous standards of the Pollution Control Strategy" and "Folks should challenge the agency and administration to make sure we (DNREC) are walking the walk"**. I find Mr. O'Mara's statements to be ironic since the Pinnacle plant was not required to meet the Inland Bays TMDL requirements, their NPDES permit requirements or the Pollution Control Strategy (PCS) standards for the last 14 years.

Question #1 – Since the EPA has now had time to review my formal complaint as well as reviewing DNREC's past actions regarding this permit, the question simply is did Pinnacle actually meet the Inland Bays TMDL requirements, NPDES permit requirements and PCS standards over the last 14 years, yes or no? If the EPA's answer is yes, please explain how they met these requirements. Since hindsight is twenty twenty and Secretary O'Mara welcomes a challenge to his agency, there should be no problem in answering this question honestly.

Chris Bason the Executive Director of the Center for Inland Bays recently informed me during a discussion that Allen Harim made a presentation to that group stating how they were going to be using the groundwater remediation offset that was also used by the Pinnacle plant. As you are aware, this is one of the three offsets I challenged in my February 27, 2014 complaint. This also means that DNREC has already offered this questionable offset to Allen Harim to be used in their proposed permit. As I stated in my complaint, this groundwater remediation offset was not offered to any other point source in Delaware. It is my opinion that the Millsboro Sewage Treatment plant is in the process of spending \$15M because they were not offered the same offsets as Pinnacle and I stated this at a recent public hearing held by DNREC. I also have a problem with the justification that pumping groundwater that may never reach the surface waters of the Indian River and discharging it into the Indian River somehow benefits the Indian River and the use of this offset.

I know the EPA wants to be reactive and wait for the Allen Harim permit to be filed. However, since Allen Harim is already stating the use of this offset, I am requesting the EPA to take a proactive roll and tell us now if this type of offset is valid and credible or not. If not, let's take it off the table now before DNREC promises something they can't deliver. If EPA states it is valid, please explain its justification and reason it has never been offered to Mountaire and the 3 Inland Bays Sewage Treatment Plants as I will pursue them to take legal action.

Question #2 – Is the groundwater remediation offset used by Pinnacle and planned to be used by Allen Harim a valid Nutrient offset supported by the EPA? If yes, please explain.

Due to existing litigation and most likely future litigation, I am requesting a response in writing.

Thank you,

(b) (6)